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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,163	02/15/2007	Richard Guliker	MULLE50.001APC	4644
20995 7590 05/13/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER STEITZ, RACHEL RUNNING	
			ART UNIT 3732	PAPER NUMBER
			NOTIFICATION DATE 05/13/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/578,163	<b>Applicant(s)</b> GULIKER, RICHARD	
	<b>Examiner</b> Rachel R. Steitz	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/5/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 9 and 22 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 9, line 3, "the second hair bundle" lacks a prior antecedent.
4. Claim 22, states the adhesion piece is positioned at a distance of about 203 cm from the weaving band, however, according to claim 18, the hair is about 2-12 cm so it is unclear how the adhesion piece is located about 203 cm.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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6. Claims 1-14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Song (US Pub 2005/0061346).

Regarding claim 1, Song discloses a hair piece for connection with basic hair (60) comprising at least one hair bundle (10) consisting of a number of parallel hairs, an elongated weaving band (30) connected to an outer end of the hair bundle whereby the band is provided with a number of weaving elements (41) and whereby each of the hairs of the hair bundle is interconnected individually or in groups with the weaving elements of the weaving band (see Figure 10; paragraph 46). Connecting openings (i.e. space where hair 60 is passed) and connecting elements (50) are provided at regular intervals along the weaving band (see Figure 10; paragraph 60).

Regarding claim 2, the connection openings are provided between the weaving elements (see Figure 10).

Regarding claim 3, the connection openings are formed by joined weaving elements (41) (see Figure 10).

Regarding claim 4, the connection openings are formed by free space which is present between the connected weaving bands (see Figure 10; paragraph 47).

Regarding claim 5, the hair piece is provided with one weaving band (30) being connected with two hair bundles (20) whereby the weaving band is shaped as a closed loop (see Figure 10; paragraph 47).

Regarding claim 6, outer (41) or head ends of a piece of the weaving band are interconnected thereby forming a closed loop (see Figure 10).

Regarding claim 7, the outer (41) or head ends of the piece of weaving band are abuttingly positioned with respect to each other without overlapping each other (see Figure 10).

Regarding claim 8, the outer (41) or head ends of the piece weaving band are interconnect by means of a stitched seam (41) extending transversely over both waving band ends (see Figure 10).

Regarding claim 9, the hair piece comprises two hair bundles (10) whereby the first hair bundle is connected to a first weaving band (30) and the second hair bundle is connected to a second weaving band (see Figure 10 and 17a).

Regarding claim 10, the hair piece comprises a number of small weaving bands (41) each provided with hair bundles (10) shaped as a closed loop whereby the small weaving bands are interconnected (see Figure 10).

Regarding claim 11, the weaving bands of the hair bundles are interconnected by means of connection elements (40) provided transversely at regular distance (see Figure 10).

Regarding claim 12, upper sides of the weaving band are transversely abuttingly positioned with respect to each other (see Figure 10).

Regarding claim 13, two connection elements (50) are repeatedly provided at a short distance with respect to each other (see Figure 10).

Regarding claim 14, the hair bundle consists of small groups of hairs (10) provided with interspaces having little or no hair (see Figure 10).

Regarding claim 16, the hair piece is laterally provided on both sides of one or more groups of hairs with less hair or hair volume (see Figure 10).

7. Claims 1-3, 9, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Bernard (US 7,469,701).

Regarding claim 1, Bernard discloses a hair piece for connection with basic hair (H1b) comprising at least one hair bundle consisting of a number of parallel hairs, an elongated weaving band (110) connected to an outer end of the hair bundle whereby the band is provided with a number of weaving elements (the right and left side of the weaving band) and whereby each of the hairs of the hair bundle is interconnected individually or in groups with the weaving elements of the weaving band (see Figure 2; column 4, lines 20-65). Connecting openings (122) and connecting elements (10) are provided at regular intervals along the weaving band (see Figure 3; column 4, lines 20-65).

Regarding claim 2, the connection openings (122, 124) are provided between the weaving elements (see Figure 3).

Regarding claim 3, the connection openings (122,124) are formed by joined weaving elements (i.e. right and left sides) (see Figure 3).

Regarding claim 9, the hair piece comprises two hair bundles (H1b, H1a) whereby the first hair bundle is connected to a first weaving band and the second hair bundle is connected to a second weaving band (see Figure 3).

Regarding claim 20, the method of attaching into basic hair a hair piece comprises unfolding the hair piece in a substantially flat plane in such a way that free ends of the hair bundles (120) are extending in opposite directions with respect to each other, positioning the weaving band (110) of the hair bundles in close proximity to the basic hair (H1b) such that the hair bundles remain extended in opposite directions, passing at least one time a number of basic hairs (H1b) through a connection opening (122) of the hair piece, interconnecting the passed through basic hairs with the weaving band or with other basic hair (see Figure 3; column 2, lines 20-65). Repeating the steps for another connection opening (124) located in the weaving band until the hair piece is sufficiently fixedly conned with the basic hair along the length of the weaving band (see Figure 3; column 2, lines 20-65).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song (US Pub 2005/0061346).

Regarding claim 15, Song discloses a lateral interspaces of about 2 and 4 mm (paragraph 51), however, Song does not disclose the interspaces having a lateral

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dimension of about 0.5 and 3mm and the groups of hairs having a lateral dimension of about 2 and 4 mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the lateral interspaces dimension of about 0.5 and 3mm and the groups of hairs have a lateral dimension of about 2 and 4 mm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claim 23, Song discloses the weaving elements being thread; however, Song does not disclose the thread being made from hair, cotton or synthetic material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the thread be made from cotton, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

10. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song (US Pub 2005/0061346) in view of Lane (US Pub 2005/0268928).

Song discloses the claimed invention except for the hair bundles provided with a different length or color, wherein the lengths are in the range of about 2 and 12 cm.

Lane discloses a hair device that can be made from different lengths and color (paragraph 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hair bundles of Song with different lengths

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or color as taught by Lane in order to provide a variety of designs. It further would have been obvious to one having ordinary skill in the art at the time the invention was made to have the length of hair be about 2 and 12 cm, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

11. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernard (US 7,469,701) in view of Song (US Pub 2005/0061346).

Bernard discloses the claimed invention except for positioning an adhesion piece onto the basic hairs and fixedly interconnecting the adhesion piece with hairs, wherein the adhesion piece is positioned at a distance of about 2-3 cm from the weaving band.

Song discloses positioning an adhesion piece (55) onto the basic hairs and fixedly interconnecting the adhesion piece with hairs (paragraph 53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to position an adhesion piece onto the basic hairs of Bernard as taught by Song in order to fixedly interconnect the hairs. It further would have been obvious to one having ordinary skill in the art at the time the invention was made to have the adhesion piece be posited at a distance of about 2-3 cm from the weaving band, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel R. Steitz whose telephone number is (571)272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner, Art Unit 3732

/Rachel Running Steitz/  
Examiner  
Art Unit 3732

5/4/2009